



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 21, 1995

Mr. Edward H. Perry
Office of the City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR95-975

Dear Mr. Perry:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34720.

The City of Dallas (the "city") received a request for information concerning the Valley Mills or Independence Park housing project. You argue that a portion of the requested information is excepted from disclosure pursuant to sections 552.101, 552.107, 552.110, and 552.111. You have submitted to this office for review the documents at issue. We assume the other requested information has already been released to the requestor.

Exhibit B

You submitted to this office financial information, marked as Exhibit B, that you assert is excepted from disclosure under section 552.101. Section 552.101 protects from disclosure information "considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section allows information to be withheld under common-law privacy if it is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision No. 328 (1982). You state that the city is working with private entities to develop affordable housing in a certain part of Dallas, and that the project involves the distribution of public funds. We assume that the financial information you submitted concerns developers who may be involved with this project.

You submitted background financial information about two individuals and a corporation. There is no protected common-law privacy interest in financial information about a corporation. Open Records Decision No. 192 (1978) at 4 (right of privacy protects the feelings of human beings, not property, business, or other monetary interests). This office has, however, recognized that personal financial information about an individual is generally private unless there is a legitimate public interest. Open Records Decision No. 373 (1983). The financial information about the individuals must be withheld from disclosure under common-law privacy. Open Records Decision No. 620 (1993) at 4.

You contend that the company's financial information, including credit references and investor information, includes trade secrets that should be excepted from disclosure under section 552.110. Pursuant to section 552.305 of the Open Records Act, this office provided the third parties whose financial information is at issue the opportunity to submit reasons as to why the information should be withheld from disclosure. However, they did not submit any reasons as to why the information at issue should be withheld.

Section 552.110 protects the property interests of private persons by excepting from required public disclosure trade secrets and commercial or financial information that is obtained from a person and made privileged or confidential by statute or judicial decision. Open Records Decision No. 592 (1991) at 2. This office must accept a claim that information is excepted as a trade secret if a *prima facie* case for exception is made and no argument is submitted that rebuts the claim as a matter of law. *Id.* However, when a governmental body or third party fails to provide evidence of the factors necessary to establish a trade secret claim, this office cannot conclude that the trade secret prong of section 552.110 applies. Open Records Decision No. 402 (1983).

The information at issue also includes social security numbers. In Open Records Decision No. 622 (1994), this office determined that social security numbers must be withheld under federal law if obtained or maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. It is not apparent to this office, nor do we have any way to determine, whether these are social security numbers that must be kept confidential. However, prior to releasing the social security numbers the city should ensure that it has not obtained or maintained them pursuant to any provision of law enacted on or after October 1, 1990.

As to the other information in Exhibit B, it must be released.

Exhibit C

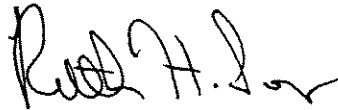
You also submitted documents, marked as Exhibit C, that you contend are excepted from disclosure under sections 552.107(1) and 552.111. Section 552.107(1) excepts from disclosure communications that reveal client confidences or the attorney's

legal opinion or advice. Open Records Decision Nos. 589 (1991) at 1, 574 (1990) at 3, 462 (1987) at 9-11. In Open Records Decision No. 574 (1990), this office held that section 552.107(1) excepts from disclosure "privileged information" but that the exception does not apply to all client information held by an attorney for a governmental body. The only information excepted from disclosure under section 552.107(1) is information reflecting client confidences and attorney advice, recommendation, and opinion given within the context of an attorney-client relationship. *See* Open Records Decision No. 589 (1991). We have marked the information at issue that may be withheld pursuant to section 552.107(1).

You assert that section 552.111 is applicable to the remaining information. Section 552.111 applies to internal agency communications consisting of advice, opinion, and recommendation reflecting the policymaking processes of the governmental body. Open Records Decision No. 615 (1993). The remaining information is not advice, opinion, or recommendation reflecting the policymaking processes of the governmental body. Therefore, the remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 34720

Enclosures: Marked documents

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